



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:
	:
BRET PALLOTTO and CENTRE DAILY TIMES, Requester	:
	:
v.	:
	:
	: Docket No: AP 2025-1790
	:
PENNSYLVANIA STATE UNIVERSITY POLICE AND PUBLIC SAFETY, Respondent	:
	:

On June 12, 2025, Bret Pallotto and Centre Daily Times (collectively the “Requester”) submitted a request (“Request”) to the Pennsylvania State University (“University”) Police and Public Safety (“University Police”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

Detailed payroll records including overtime pay for all [University Police] [] officers from January 1, 2024 to December 31, 2024.

On June 13, 2025, the University denied the Request, asserting that University Police is a department of the University, and as a result, does not qualify as an agency and is not subject to the RTKL. 65 P.S. § 67.102.

On June 26, 2025, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.¹ Specifically, the Requester argues that University Police is a fully functional police agency, separate from the University. As such, the factors in *In re Venango County’s Tourism Promotion Agency and Lead Economic Development Agency* (“*Venango*”) apply to University Police.² The OOR invited both parties to supplement the record and directed University Police to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On July 9, 2025, the University submitted a position statement and evidence arguing that University Police is an administrative unit of the University, which is not a “Commonwealth agency” or a “local agency,” and cannot be severed from the University. Secondly, the University argues that since University Police cannot be separated from the University, the *Venango* factors are not relevant in analyzing whether University Police is an agency subject to the RTKL. In support of its position, the University submitted an affidavit, duly sworn, authored by Sara F. Thorndike, Ed.D. (“Thorndike Affidavit”), the University’s Senior Vice President for Finance and Business and Chief Financial Officer.

Records in the possession of local agencies are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. Local agencies are required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested

¹ The Requester granted the OOR a thirty-day extension to issue a Final Determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

² *In re Venango County’s Tourism Promotion Agency and Lead Economic Development Agency*, 83 A.3d 1101(Pa. Commw. Ct. 2014).

fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

The University is neither a “Commonwealth agency” or a “local agency” for purposes of the RTKL. *See Bagwell v. Pa. Dep’t of Educ.*, 76 A.3d 81, 87-88 (Pa. Commw. Ct. 2013); 65 P.S. § 67.102 (excluding state-related institutions such as the University from the definition of “State-affiliated entity” and “agency”). The OOR is without jurisdiction to consider appeals of requests not directed to Commonwealth agencies or local agencies. 65 P.S. § 67.503. As noted by the University, University Police is supervised by Ms. Thorndike, an employee of the University since 2021. Thorndike Affidavit ¶¶ 2, 8.³ University Police is an administrative unit of the University, not a separate legal entity. Thorndike Affidavit ¶ 7. University Police was established by the University, and all police officers within the University Police are employees of the University. Thorndike Affidavit ¶ 12. Further, the OOR has previously found that University Police is an administrative department of the University and as a result, is not subject to the OOR’s jurisdiction. *See Lavigne v. Pennsylvania State University*, OOR Dkt. AP 2011-1470, 2011 PA O.O.R.D. 1201; *see also Hoyer v. Penn State Campus Police*, OOR Dkt. AP 2015-0451, 2015 PA O.O.R.D. LEXIS 415 (holding that the Penn State University Police is excluded from the definition of “agency” under the RTKL); *Bard v. University of Pittsburgh Police Dep’t*, OOR Dkt. AP 2025-0898, 2025 PA O.O.R.D. LEXIS 763; *Bluestine v. Temple University Police Dep’t*, OOR Dkt. AP 2011-0344, 2011 PA O.O.R.D. LEXIS 125. If the General Assembly wished to make the University Police

³ Under the RTKL, a sworn affidavit or statement may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the University has acted in bad faith, “the averments in [the affidavit] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

subject to the OOR's jurisdiction, they could have explicitly done so. Instead, the General Assembly made the University a "State-related institution" with its own reporting requirements, demonstrating a clear legislative intent to treat the University and its departments differently from Commonwealth and local agencies, as defined by the RTKL. Thus, the University Police, as part of the University, is not subject to the OOR's jurisdiction.

For the foregoing reason, the appeal is **dismissed**, and neither the University nor the University Police are required to take any further action in this appeal. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to a court with competent jurisdiction. 65 P.S. §§ 67.1301(a), 1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL; however, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.⁴ 65 P.S. § 67.1303. All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 25, 2025

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent via portal only to: Bret Pallotto; Kelly Mroz, Esq.

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).